

INFORMATION

JD-CR-71 - Rev. 11-18

**STATE OF CONNECTICUT
SUPERIOR COURT**

Disposition date

Police Case number

20-37886

Agency name

Fairfield Police Department

Agency number

051

Title, Allegation and Counts

State of Connecticut vs. (Name of accused) Carey, Brian		Residence (Town) of accused Fairfield		Docket number	
Address 265 Figlar Ave., Fairfield, CT			Date of birth 01/08/1978		The undersigned Prosecuting Authority of the State of Connecticut charges that:
To be held at (Town) Bridgeport		Geographical area number 2		Court date	
Count One — Did commit the offense of: ILL DISPOSAL OF PCBs					
At (Town) Fairfield		On or about (Date) 04/01/2018 to 06/30/2018		In violation of General Statute number 22a-467/438(c)	
Count Two — Did commit the offense of: ILL DISCHARGE OF MATERIALS INTO WATERS					
At (Town) Fairfield		On or about (Date) 04/01/2018 to 06/30/2018		In violation of General Statute number 22a-430/438(c)	
Count Three — Did commit the offense of: CONSPIRACY TO ILL DISPOSAL OF PCBs					
At (Town) Fairfield		On or about (Date) 12/13/2018 to Present		In violation of General Statute number 53a-48 to 22a-467/438(c)	
<input type="checkbox"/> See other sheet for additional counts			Date 11-16-2020		Signed (Prosecuting Authority) <i>Lambert WEC, SASA</i>

Court Action

Defendant advised of rights before plea				Bond		Surety		<input type="checkbox"/> 10 % Election (Date)	
(Judge) (Date)								<input type="checkbox"/> Cash <input type="checkbox"/> CT <input type="checkbox"/> JY	
<input type="checkbox"/> Attorney <input type="checkbox"/> Public defender Guardian				Bond change				Seized property inventory number	
Count	Plea date	Plea	Plea withdrawn Date	New plea	Verdict finding	Fine	Remit	Additional disposition	
1						\$	\$		
2						\$	\$		
3						\$	\$		
Date	Other Court Action							Judge	
Receipt number		Cost <input type="checkbox"/> IMP <input type="checkbox"/> NCI		Bond information <input type="checkbox"/> Bond forfeited <input type="checkbox"/> Forfeiture vacated <input type="checkbox"/> Forfeiture vacated and bond reinstated					
Application fee - receipt number if paid		Circle one W I Q		Program fee - receipt number if paid		Circle one W I Q		Probation fee - receipt number if paid	
Prosecutor on original disposition		Reporter/monitor on original disposition		Signed (Clerk)		Signed (Judge)			

JD-CR-71 Rev. 11-18

STATE OF CONNECTICUT
SUPERIOR COURT

Disposition date

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20-37886

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051

Arrest Warrant

Geographical
area
number

2

State of Connecticut vs. Carey, Brian

To: Any Proper Officer of the State of Connecticut

Probable cause to believe that an offense has been committed and that the accused committed it having been found, by Authority of the State of Connecticut, you are hereby commanded to arrest the body of the within-named accused.

(*"X" all that apply*)

- ☐ A. Accused is ordered to be brought before a clerk or assistant clerk of the Superior Court.
- ☐ B. Accused is not entitled to bail.

If A, B, or both are checked above, you shall, without undue delay, bring the arrested person before the clerk or assistant clerk of the Superior Court for the geographical area where the offense is alleged to have been committed, or if the clerk's office is not open, to a community correctional center within said geographical area, or the nearest community correctional center if no such center exists in the geographical area, or to the York Correctional Institution, as the case may be.

Extradition boundaries established by prosecutor

☒ C. Bail set at \$25,000

☒ D. Non-financial conditions of release:

☒ E. Conditions of release not determined by court.

By the Court

Signed (Judge of the Superior Court)

Date _____

Name of Judge (Print or type) _____

Return On Arrest Warrant

Geographical
area
number

Town of

Date _____

State of Connecticut

Then and there, by virtue of the within and foregoing complaint and warrant, I arrested the body of the within-named accused and read the same in the hearing of said accused; and have said accused here in court for examination.

Attest (Officer's signature and Department)

[illegible]

ARREST WARRANT APPLICATIONJD-CR-64b Rev. 3-11
C.G.S. § 54-2a
P.B. §§ 36-1, 36-2, 36-3**STATE OF CONNECTICUT
SUPERIOR COURT**
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For Court Use Only

Supporting Affidavits sealed

☐ Yes☐ No

Police Case number 20-37886	Agency name Fairfield Police Department	Agency number 051
Name (Last, First, Middle Initial) Carey, Brian	Residence (Town) of accused Fairfield	Court to be held at (Town) Bridgeport
		Geographical Area number 2

Application For Arrest Warrant

To: A Judge of the Superior Court

The undersigned hereby applies for a warrant for the arrest of the above-named accused on the basis of the facts set forth in the: ☒ Affidavit Below. ☐ Affidavit(s) Attached.

Date 11-16-2020	Signed (Prosecuting authority) <i>Tamberlyn E. Chapman, S.A.S.A.</i>	Type/print name of prosecuting authority Tamberlyn Chapman, S.A.S.A.
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Affidavit

The undersigned affiant, being duly sworn, deposes and says:

1. The undersigned, Detective Frederick Hine, being duly sworn, does depose and state that he has been a member of the Fairfield Police Department since October 27, 1987. At all times mentioned herein I was acting as a member of said department. The following facts and circumstances are stated from personal knowledge and observations as well as information received from other police officers acting in their official capacity and from official police reports and statements made by prudent and credible witnesses.
2. On July 5, 2017, Fairfield Police Chief Gary McNamara requested an investigation into the operation of the Construction Material Processing Facility (The Site) located at 183 Richard White Way, Fairfield, CT (The Site). Chief McNamara reported that citizens of Fairfield hadve expressed their concern over the excessive volume of material stockpiled at the facility while it washas been operated by Julian Development, LLC (also known as Julian Eenterprises) and also over the recent discovery of hazardous materials, including Lead and Polychlorinated Biphenyls (referred to hereafter as PCBs) at the site. An investigation was requested to determine if criminal violations have been committed by any party associated with the use or operation of the facility.
3. The Site is among several facilities located on Town-owned property used and operated by Fairfield Department of Public Works. The Town operates its Transfer station on a separate parcel of property, which Transfer Station is properly permitted for the receipt of municipal solid waste and ultimate transfer to a permitted disposal facility. The Town also owns property located at One Rod 650 Old Damn Road, which was historically used as a landfill. This landfill was previously permitted and closed, pursuant to approval of the Commissioner of the CT Department of Energy and Environmental Protection (DEEP) and CGS 22a-208a. A solar energy facility now sits upon this property.
4. The Town of Fairfield generates several tons of earth material on an annual basis from town work.

(This is page 1 of a 24 page Affidavit.)

Date 11-16-20	Signed (Affiant) <i>Sgt. Fred Hine</i>
Jurat Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public) <i>Tamberlyn E. Chapman, S.A.S.A.</i>

Finding

The foregoing Application for an arrest warrant, and affidavit(s) attached to said Application, having been submitted to and considered by the undersigned, the undersigned finds from said affidavit(s) that there is probable cause to believe that an offense has been committed and that the accused committed it and, therefore, that probable cause exists for the issuance of a warrant for the arrest of the above-named accused.

Date and Signature <i>Bpt</i>	Signed at (City or town) Bridgeport	On (Date) 11/16/20	Signed (Judge/Judge Trial Referee) <i>[Signature]</i>	Name of Judge/Judge Trial Referee Kevin S. Nease
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ARREST WARRANT APPLICATION

JD-CR-64b Rev. 3-11
C.G.S. § 54-2a
P.B. §§ 36-1, 36-2, 36-3

**STATE OF CONNECTICUT
SUPERIOR COURT**

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Name (Last, First, Middle Initial) Carey, Brian	Residence (Town) of accused Fairfield	Court to be held at (Town) Bridgeport	Geographical Area number 2
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Affidavit - Continued

The earth material that is generated is from the removal of old road material, sidewalks, parking lots, drainage, and removed earth material in the construction of sewer and site construction. This material cannot be reused in its raw form. The Fairfield Public Works Department (DPW) also has a need for processed earth materials to be used for new projects, including building roads, sidewalks, parking lots, drainage, sewers, etc. As a solution to managing the accumulation of unusable earth by-products from town projects, The Construction Material Processing Facility was created at 183 Richard White Way, on DPW Property (The Site). The goal of the Facility is to accept earth material generated through Town projects, mix the unusable material with imported new earth materials (i.e. gravel, rock, concrete) and convert it into an earth product that can be reused or sold. DPW has operated The Site as a public/private partnership for several years. The right to operate The Site is awarded to a private contractor through a Town bidding process and the contract term is three (3) years. Up until August, 2019, Scott Bartlett (d.o.b. 01/11/1962) ran the DPW as the Superintendent, under the supervision with the oversight of Joseph Michelangelo (d.o.b. 10/06/1971), the Director of Public Works.

5. The Site is also commonly referred to by Town officials and Department of Public Works (DPW) employees, as "Materials Processing Facility", "Aggregate Facility", "Aggregate Yard" The Site sits on the banks of the Pine Creek, surrounded by acres of wetlands and marsh, approximately 20 yards from a large pond that empties into the Long Island Sound. The Site is within 300 yards of heavily populated residential neighborhoods, ballfields, playgrounds and the Fairfield public beach.
6. On or about May, 2013 the contract to operate The Site was awarded to Julian Development. The bid/contract requirements include but are not limited to a prohibition on the acceptance of hazardous or contaminated materials. Julian Development operated the site until December 2016. Through his investigation, Affiant Hine learned that at the time the contract was awarded to Julian Development, there was approximately 40,000 cubic yards of material located on The Site. By the time The Site operation was shut down, the amount of material stockpiled on The Site had risen to approximately 120,000 cubic yards and covered nearly three acres.
7. Affiant Hine's investigation resulted in the arrests of the Town of Fairfield's Superintendent of Public Works, Scott Bartlett (d.o.b. 01/11/1962), The Town of Fairfield's Director of Public Works, Joseph Michelangelo (d.o.b. 10/06/1961) and Jason Julian (d.o.b. 11/23/1969) of Julian Development on multiple environmental and financial charges which are pending in Fairfield Superior Court, docket numbers CR19-331941, CR19-331942 and CR19-331943 respectively. Subsequent investigation led to the arrest of Scott Bartlett on additional, related charges of Larceny 1st Degree, which charges are also pending in Fairfield Superior Court, docket number CR20-0334718.
8. During the investigation, Affiant Hine learned that both Julian Enterprises and the Town (at different times) had previously retained the services of a Licensed Environmental Professional ("LEP"), Robert J. Grabarek, (d.o.b. 10/18/1956) d.b.a. Osprey Environmental Engineering, LLC to perform environmental services. These services began over ten years ago in connection

(This is page 2 of a 24 page Affidavit.)

Date 11-16-20		Signed (Affiant) <i>Sgt Paul Hine</i>	
Subscribed and sworn to before me on (Date) 11-16-2020		Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public) <i>Lambert, SABA</i>	
Reviewed (Prosecutorial Official) <i>Lambert, SABA</i>	Date 11-16-2020	Reviewed (Judge/Judge Trial Referee) <i>[Signature]</i>	Date 11/16/20

ARREST WARRANT APPLICATIONJD-CR-64b Rev. 3-11
C.G.S. § 54-2a
P.B. §§ 36-1, 36-2, 36-3**STATE OF CONNECTICUT
SUPERIOR COURT**

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Name (Last, First, Middle Initial)	Residence (Town) of accused	Court to be held at (Town)	Geographical Area number
Carey, Brian	Fairfield	Bridgeport	2

Affidavit - Continued

with the DPW's storm water permitting issues. During this period, DEEP issued Notice of Violations (NOV) on three occasions to Julian Enterprises during their period they management of The Site. These NOV's: WRSW15004, issued May 12, 2015; WRSW15010, issued January 7, 2016 and WRSW16012 issued November 22, 2016. The violations cited in all three of these NOV's include but are not limited to: Failure to register for The General Permit For The Discharge of Storm water from an industrial Facility pursuant to CGS §22a-430b and failure to monitor Storm water discharge in accordance with section 5(e) of said General Permit.

9. The Licensed Environmental Professional (LEP) Program was established by Public Act 95-183, and codified as section 22a-133v of the Connecticut General Statutes (CGS) on October 1, 1995. Pursuant to Section 22a-133v(b)-(c) of the CGS, the State Board of Examiners of Environmental Professionals was established within the Department of Energy & Environmental Protection and Regulations were promulgated (June, 1997) establishing the rules and standards for professional ethics and conduct appropriate to establish and maintain a high standard of integrity and dignity in the practice of an LEP. In specific circumstances, an LEP may "verify" that an investigation has been performed at a specific property in accordance with prevailing standards and guidelines, and that pollution on such property has been remediated in accordance with the Remediation Standard Regulations (RSRs) adopted by the Commissioner pursuant to section 22a-133k of the Regulations of Connecticut State Agencies. The Commissioner may conduct an audit of any action authorized by law to be performed by an LEP. The LEP Verification Audit Program has been established to ensure that the opinions "verifications") of the LEP are based on an appropriate understanding of the environmental conditions of the site and that the verification is in compliance with all applicable statutes and regulations, including the RSRs.
10. During his initial investigation, Affiant Hine learned that commencing on or about December 2015, Robert Grabarek of Osprey Environmental was audited by the State Board of Examiners of Environmental Professionals. This audit involved the documentation of verification of remediation that Grabarek had submitted to the DEEP Remediation Division of the Bureau of Water Protection and Land Use on February 5, 2015, in which he indicated that all pollution on a property in Bethany, CT had been remediated in accordance with the Remediation Standard Regulations (RSR's) adopted by the Commissioner pursuant to section 22a-133k. The auditor concluded that Grabarek may have violated Section 221-144v-6(d) of the Regulation of Connecticut State Agencies (RCSA's) governing professional conduct of licensed environmental professionals (LEP's). The audit cited Grabarek for: incomplete site assessment in that obvious release areas of apparent significance had not been investigated; apparent or obvious exceedances of RSR's in soil and/or ground water; improper testing of groundwater at release sites; significant data gaps associated with the site characterization; and insufficient documentation to support the verification of the site. The audit findings were forwarded to the State Board of Examiners of Environmental Professionals for further review. The State Board of Examiners of Environmental Professionals held a compliance meeting with Grabarek and determined his verification of the site was not in compliance with the RSR's and violated CT law. The board issued Grabarek a written reprimand, dated August 7, 2017, and a consent order documenting that he failed to act with reasonable care and diligence while applying the knowledge and skill of a LEP in good

(This is page 3 of a 24 page Affidavit.)

Date	11-16-20	Signed (Affiant)	Sgt Paul Hine
Jurat	Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public)	Lambertson EC, SAsA
Reviewed (Prosecutorial Official)	Date	Reviewed (Judge/Judge Trial Referee)	Date
Lambertson EC, SAsA	11-16-2020	[Signature]	11/16/20

ARREST WARRANT APPLICATION

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STATE OF CONNECTICUT
SUPERIOR COURT

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Name (Last, First, Middle Initial)	Residence (Town) of accused	Court to be held at (Town)	Geographical Area number
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Affidavit - Continued

standing, (RCSA 22a-133v-6(c)(1); failed to exercise professional judgement RCSA 133v-6-(d)(2)(A), failed to follow the requirements and procedures set forth in the applicable provisions of the Connecticut General Statute (RCSA 22a-133v-6(d)(2)(B), and failed to make good faith and reasonable efforts to identify and obtain relevant data and other information evidencing conditions at the site to discharge his obligations(RCSA 133v-6(d)(2)(C).

11. In 2016, Grabarek/ Osprey was hired to assist the Town in addressing the large stockpile of material, including the construction of a Berm around the large stockpile of material located on The Site previously operated by Julian Development. These services include but are not limited to sampling soil & sediment for contaminants, the preparation of a Health and Safety Plan involving the construction of said berm, meetings with various town officials involved with The Site and other environmental services. Information gathered by Affiant Hine revealed that Grabarek, in his capacity as an LEP, together with Town officials, conspired to bury contaminated materials into the Berm, including soils containing PCBs in concentrations greater than 1 part per million (ppm) and then continued to conceal the act of doing so. This illegal disposal of PCBs is in violation of Connecticut General Statutes Sec §§22a-463-469 et seq, and other health and environmental protection laws.
12. Connecticut General Statutes (CGS) §22a-467 provides that, *no person shall dispose of the compound PCB or any item, product or material containing the compound PCB except with a permit issued pursuant to section 22a-208a, 22a-430 or 22-454, in accordance with a written approval of the Commissioner.* For purposes of this section, "person" includes any responsible corporate officer or municipal official. CGS §22a-467 defines "disposal" to include, *to incinerate or treat the compound PCB or any item, product or material containing the compound PCB, or to discharge, deposit, inject, dump or place the compound or any item, product or material containing the compound PCB into or on land or water so that such compound, item, product or material enters the environment, is emitted into the air, or discharged into the any waters, including ground waters.*
13. CGS §22a-463 defines "PCBs" as, *...the class of organic compounds known as polychlorinated biphenyls or terphenyls and includes any of the several compounds produced by replacing two or more hydrogen atoms on the biphenyl or terphenyl molecule with chlorine.*
14. The US Environmental Protection AgencyPA has classified PCBs as a Group B2, probable human carcinogen. According to the US EPA, there is studies reviewed in the PCB reassessment provided EPA with sufficient information to develop a range of potency estimates for different PCB mixtures, based on the incidence of liver cancer and in consideration of the mobility of PCBs in the environment. The reassessment concluded that Tthe types of PCBs likely to be bio accumulated in fish and bound to sediments are the most carcinogenic PCB mixtures. The composition of PCB mixtures changes following their release into the environment. As a result, people who ingest PCB-contaminated fish or other animal products, and contact PCB-contaminated sediment may be exposed to PCB mixtures that are even more toxic than the PCB

(This is page 4 of a 24 page Affidavit.)

Date	11-16-20	Signed (Affiant)	Sgt Paul Hine
Jurat	Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public)	Tamberlynne EC, SAsA
Reviewed (Prosecutorial Official)	Date	Reviewed (Judge/Judge Trial Referee)	Date
Tamberlynne EC, SAsA	11-16-2020	[Signature]	11/16/20

ARREST WARRANT APPLICATION

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**STATE OF CONNECTICUT
SUPERIOR COURT**

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Name (Last, First, Middle Initial) Carey, Brian	Residence (Town) of accused Fairfield	Court to be held at (Town) Bridgeport	Geographical Area number 2
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Affidavit - Continued

mixtures contacted by workers and released into the environment.

15. CGS §22a-469 provides, *any person who or municipality which violates any provisions of sections 22a-463 to 22a-469, shall be subject to the penalties provided for in section 22a-438.*
16. CGS §22a-438c provides, *any person who knowingly violates any provision of this chapter, ... shall be fined not more than fifty thousand dollars a day for each day in violation or be imprisoned not more than three years, or both. For the purposes of this subsection, person includes any responsible corporate officer or municipal official.*
17. CGS §22a-430(a) provides, *no person or municipality shall initiate, create, originate or maintain any discharge of water, substance or material into the waters of the state without a permit for such discharge issued by the Commissioner.* Penalties for this section are provided for in CGS §22a-438b-c.
18. The CT Department of Energy and Environmental Protection ("DEEP") regulates the handling of PCBs in Connecticut. CGS §22a-467 does not allow exception for any threshold amount of PCB compound to be placed on the ground - not even a molecule - except with permit/prior approval from the (DEEP). In some circumstances, under federal law, there exists a limit of 1 ppm of PCBs, and this limit is relevant to issues of remediation of PCB- contaminated property, pursuant to the Regulations of CT State Agencies and the Code of Federal Regulations 40CFR 761.61, et. seq. According to Lori Saliby of the DEEP PCBs Unit, i In no circumstances, does state or federal law allow PCB's to be diluted by mixing them with other material, and/or burying them.
19. DEEP has never issued any permits to the Ttown of Fairfield, any of its municipal officials, any LEP, or any contractor (Including Jason Julian and his businesses) for the disposal and/or placement and/or burial of PCB's at the Town of Fairfield DPW Site.
20. The increase in both the size of the material stockpile detailed above in Pparagraph 64 and the truck traffic involved in bringing large amounts of material to The Site resulted in numerous complaints from town residents that live in the proximity of The Site. The Site became known around town as "Mt. Trashmore." As a result of these complaints, there were at least three public meetings held during which town officials relayed their plan for addressing the remaining stockpile of material at The Site. The preparation for, and attendance at, these meetings included the First Selectman Michael Tetreau, Director Joseph Michelangelo, Superintendent Scott Bartlett, Director of Human Resources Emmet Hibson and Director of Conservation Brian Carey.
21. Minutes for a public meeting on June 23, 2016, were found on the Town of Fairfield website under files and documents for the Public works Reclamation Yard. The minutes for this meeting show it was held at the Roger Sherman School and was attended by Joseph Michelangelo, Scott Bartlett, Robert Grabarek, Brian Carey, Michael Tetreau, other DPW employees and about 50 local residents. Michelangelo presented information regarding the citizens' concerns citizens had

(This is page 5 of a 24 page Affidavit.)

Date 11-16-20	Signed (Affiant) <i>Sgt Paul Whi</i>		
Jurat	Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public) <i>Tamberlyn EL, SASSA</i>	
Reviewed (Prosecutorial Official) <i>Tamberlyn EL, SASSA</i>	Date 11-16-2020	Reviewed (Judge/Judge Trial Referee) <i>[Signature]</i>	Date 11/16/20

ARREST WARRANT APPLICATION

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**STATE OF CONNECTICUT
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Affidavit - Continued

with how Julian was operating the site and the amount of material. Michelangelo presented on how they will lower the height of the pile while constructing a landscape berm around it. The last entry in the minutes for this meeting stated, *In conclusion, Mr. Michelangelo said, "Scott and I own the problem, it is ours to fix and we will fix it."*

22. A review of DEEP records references a meeting that took place on September 28, 2016, at the request of the Town Administration to discuss a closure plan to be developed for the unpermitted "Fairfield Landfill." This meeting took place at DEEP, with members of the DEEP Waste Engineering and Enforcement Division (DEEP WEED), including David McKeegan of the DEEP WEED Solid Waste Permitting Division. David McKeegan sent a follow-up email dated September 28, 2016, 3:01PM, addressed to Robert Grabarek, Joseph Michelangelo and Scott Bartlett. This email provided guidance regarding Solid Waste Disposal Areas and provided a link to start the application process. This email also provided attached guidance documentation entitled, "Solid Waste Disposal Area Closure Documentation in Accordance with Section 22a-209-13 of the Regulations of Connecticut State Agencies (RCSA)." Sec. 2. of this closure documentation informs that a solid waste disposal area (SWDA) may not be "disturbed" in any manner by activities such as construction, excavation, removal or other activities. The document provides generally guidance advises to an owner of a SWDA, including a regarding the need for written approval by the Commissioner (of DEEP) of any disruption or alteration of the area.
23. In preparation for a public meeting on 10/18/2016, Michelangelo authored a Power Point Presentation. A review of town emails for that period by Inspector David Posadas revealed that Tetreau, Michelangelo, Bartlett and Grabarek either added to or edited the power point presentation. Included in this presentation was a slide that read, "Criteria for material to be used as part of the berm to be approved by DEEP WEED". In a slide titled, "Post 12/15/16," a bullet reads, "Town will continue to engage Logical Environmental to examine and test remaining pile." Further, another slide indicates that, "30,000 CY + of material to be consumed by the construction of berm."
24. During his initial investigation, Affiant Hine learned that, in 2016, in the last four months of Julian's operation of the Site and prior to the construction of the berm, the Town hired an LEP, Cindy Knight, d.b.a. Logical Environmental Solutions, LLC, to provide environmental consulting services, including conducting weekly tests of material on The Site for hazardous materials. On 12-13-16 results from laboratory tests on samples of materials taken from The Site on 11-29-16 showed that the samples contained elevated levels of PCB's and Lead. The DEEP was notified. The facility was shut down and Julian Development personnel were dismissed from The Site.
25. On or about December 13, 2016, Cindy Knight was asked to meet with Town officials to discuss the sample results referred to above. This meeting took place at the Town Hall and included, Michael Tetreau, then Town Attorney, Stanton Lessor, Director of Conservation Brian Carey, and Joseph Michelangelo. During this meeting Knight informed these Town officials that the levels of contaminants found in the sample results for Lead of 10.6 ppm would render the material a hazardous waste. She also informed them that the level of PCBs found (6.8 ppm) would mean

(This is page 6 of a 24 page Affidavit.)

Date 11-16-20	Signed (Affiant) <i>Sgt. [Signature]</i>		
Jurat	Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public) <i>[Signature] SASSA</i>	
Reviewed (Prosecutorial Official) <i>[Signature] SASSA</i>	Date 11-16-2020	Reviewed (Judge/Judge Trial Referee) <i>[Signature]</i>	Date 11/16/20

ARREST WARRANT APPLICATION

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**STATE OF CONNECTICUT
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Name (Last, First, Middle Initial)	Residence (Town) of accused	Court to be held at (Town)	Geographical Area number
Carey, Brian	Fairfield	Bridgeport	2

Affidavit - Continued

that the site would be regulated under federal Toxic Substances Control Act (TSCA), as well as the CT DEEP PCB Unit. She informed them that PCB contamination at this level would need to be removed from the site. She stated that Carey expressly confirmed to the others that the level of PCBs in the 11/29/16 sample (6.8ppm) did automatically make this a TSCA regulated site. Knight suggested that they all meet with Lori Saliby's group at the DEEP PCB Unit. Tetreau asked Knight what the implications were for being a "TSCA site" and she explained to them that site investigation and subsequent clean up would require approval of the United States Environmental Protection Agency (EPA) and would be expensive.

26. On this same date, Brian Carey called a complaint into DEEP WEED (Complaint No. 16-249) that "Julian Enterprises has been operating an aggregate operation at the site for a while now." The Complaint documents that analytical results indicate material exceeds lead TCLP results of greater than 10 ppm and greater than 50 ppm for PCBs. The Complaint notes that, "Fear is being stuck with a major contaminated area and clean-up."
27. On or about December, 2016, the Town called on the services of Robert Grabarek of Osprey Environmental Engineering to perform sampling of materials at The Site. According to the records of Osprey Environmental, Robert Grabarek's visited the site on December 14, 2016 to assess the potential for the degradation of storm water runoff due to the contaminated material previously discovered and identified as such by Cindy Knight. In a draft Memorandum from Robert Grabarek to Joseph Michelangelo and Scott Bartlett dated December 22, 2016, Grabarek reported a summary of sampling results and referenced that the exposed wastes had the potential to be carried into surrounding waterbodies. This memo referred to sample results containing PCBs, ETPH [Extractable Total Petroleum Hydrocarbons], and PNAs [Polynuclear Aromatic Hydrocarbons]. Elevated levels of Arsenic were also reported. Grabarek concludes the memo as follows, *Most of the materials may possibly be removed as CT Regulated Waste and not as an EPA Hazardous Waste. This will significantly reduce the cost of the disposal. Materials should be screened prior to transport to determine suitable disposal. The Materials should not be used as fill for residential areas.*
28. According to DEEP records, DEEP WEED was contacted by Town residents, which prompted a written complaint (no. 17-020), dated February 21, 2017 in which documented several concerns from Town residents, citizen concerns, including but not limited to: storm water issues; site management issues; and contaminated materials, including PCBs.
29. Cindy Knight of Logical Environmental Solutions LLC had been in contact with DEEP PCB Unit and developed a Remediation Action Plan, which was approved by the DEEP. Under this plan, approximately 3600 tons of PCB contaminated materials were removed from a portion of The Site where Cindy Knight had previously sampled. This material was properly disposed of at a permitted facility, in accordance with applicable State and Federal law. The remediation of this specific portion of The Site was completed on October 11, 2017.
30. Director Brian Carey was involved with the DEEP and this remediation effort, on behalf of the

(This is page 7 of a 24 page Affidavit.)

Date	11-16-20	Signed (Affiant)	Sgt Paul J. Di...
Jurat	Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public)	Tamburlyn, SAsA
Reviewed (Prosecutorial Official)	Date	Reviewed (Judge/Judge Trial Referee)	Date
Tamburlyn, SAsA	11-16-2020	[Signature]	11/16/20

ARREST WARRANT APPLICATION

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C.G.S. § 54-2a
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STATE OF CONNECTICUT
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Carey, Brian	Fairfield	Bridgeport	2

Affidavit - Continued

Town Administration. While developing the Remediation Action Plan, Cindy Knight sent Brian Carey, an email on February 23, 2017, in which Knight wrote, *Based upon my previous experience with PCB sites and informal discussions with the CTDEEP regarding the Town Reclamation yard, I recommend the following course of action to expedite the investigation and remediation of the site. 1) Call Janet Kwiatkowski from the CTDEEP to set up an informal meeting with her and Gary Trombly/Lori Saliby of CTDEEP to develop a strategy for an approved sampling plan so we can get official CTDEEP approval to treat the waste as non-TSCA regulated material for disposal. Without CTDEEP approval, the soil must be treated as TSCA waste until we can prove that the source of the contamination to the soil is less than 50 mg/kg. It does not matter that the 'as-found' concentration so far is less than 50 mg/kg. Once the sampling plan is approved, we can define the extent of the contamination and develop an approved Remedial Action Plan to get the situation taken care of in an expedited manner...* Joseph Michelangelo and then town attorney Stanton Lessor, Esq., were copied on this email.

31. On April 11, 2017, Michael Tetreau, Joseph Michelangelo and Brian Carey started emailing each other about an upcoming public meeting on April 13, 2017, to discuss residents' concerns with remediation of PCB- contaminated material from the The Site. The emails showed that Michelangelo and Carey planned to meet with Tetreau to discuss this meeting. On this same date, then town attorney Stanton Lessor forwarded an email to Carey from a town resident with questions about the testing and contamination. Carey responded to Lessor with answers next to each of the questions in the original email. One of the questions asked whether if testing was completed and Carey's answer was that it was for the contaminated material that needed to be removed. His continued answer to this question stated, January, 2019,, The Town prepared a written response to comments and questions set forth in a letter from DEEP to Joseph Michelangelo, dated "Additional testing will be required once all of the material is removed to confirm that there is no residual contaminated materials left on site." Another question asked whether if there was any further contamination found and Carey's response was, "No. At this point, the Town believes that the contaminated materials are isolated to the northeast corner of the site. Additional confirmatory soil samples will be collected after the remediation is completed to ensure that all of the contaminated materials were properly removed from the site."
32. Leading up to the April 13, 2017 public meeting, Michelangelo and Carey reviewed and edited a PowerPoint presentation. Carey also sent the PowerPoint presentation to Cindy Knight for her review and input. On April 13, 2017, Carey requested the "final copy" of the PowerPoint from Michelangelo, who sends it to him. The final version of this PowerPoint, which is eventually posted to the Town of Fairfield website, shows "Introductions" for Micheael Tetreau, Joseph Michelangelo, Scott Bartlett, Brian Carey and Cindy Knight in attendance.
33. At the end of the presentation there are several slides titled, "Public Questions." One of the questions in the presentation asks about sampling the entire reclamation pile. The answer to the question indicates that once the known contaminated material is removed ...*an additional investigation will be conducted and repeated as necessary to delineate the extent of the PCBs. A site-wide delineation investigation cannot be completed due to the magnitude of the pile. It must*

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Jurat	Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public)	[Signature] S.A.S.A.
Reviewed (Prosecutorial Official)	[Signature] S.A.S.A.	Reviewed (Judge/Judge Trial Referee)	[Signature]
Date	11-16-2020	Date	11/16/20

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Name (Last, First, Middle Initial) Carey, Brian	Residence (Town) of accused Fairfield	Court to be held at (Town) Bridgeport	Geographical Area number 2
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Affidavit - Continued

be conducted in sections in order to try and keep clean material segregated from impacted material as best as possible.

34. Another question in the April, 2017 PowerPoint document asks, *What is the role of Brian Carey, who has significant expertise in handling environmental situations, in this process? Shouldn't all testing, reporting, and liaison with DEEP concerning the pile be supervised by Brian Carey?* The Answer to this question reads, *Brian Carey has been involved with the sampling and remediation planning since the site was shut down on December 13, 2017.*
35. On May 16, 2017, Michael Tetreau, Emmet Hibson, Joseph Michelangelo, Scott Bartlett and Brian Carey attended a Board of Finance Meeting. Michelangelo, Bartlett and Carey were present to request \$290,000.00 from the Board to pay for the remediation required after the PCB contaminated material had been dumped on the site in November 2016. When it was their turn to go before the board members to make the request, a board member described The Site as "the infamous berm" and stated that the operation of The Site was supposed to save the Town money and now DPW was before the board to request money to clean up contaminants that the contractor managing the site either brought or had brought there. During the meeting, Brian Carey attempted to distinguish the specific material being removed from the Site pursuant to Knight's Remediation Plan from the rest of the material still present on The Site. Carey described the former as, "clearly demolition material" and the latter as, "aggregate containing broken pieces of concrete and pieces of asphalt". One of the board members, Mr. Walsh, asked if the construction of a berm on the site, which was to block the view of the pile from neighbors was going to be made with, "clean material". Michelangelo responded by answering, "Yes". This was in the presence of Tetreau, Hibson, Bartlett and Carey.
36. On June 6, 2017, Joseph Michelangelo and Michael Tetreau attended a Board of Finance meeting. Their presence was to request the transfer of \$289,146.00 from the general fund to DPW. The purpose of this transfer was to pay for the removal and disposal of the PCB contaminated material brought to the site by Julian in November 2016, and which was being addressed by Knight's Remediation Plan. During this meeting, a board member inquired as to who would be supervising the remediation. Tetreau named responded that Carey, as the town's environmental expert, along with the LEP, who he (Tetreau) represented, "acts as an agent of DEEP". Some of the questioning posed by the board members involved the Administration's rationale behind the town remediating the PCB contaminated material at the present time and paying the cost up-front versus waiting until the Town's pending litigation against Julian Enterprises resulted in a outcome favorable to the Town where Julian enterprises had to cover the cost. Tetreau's response was, "because the nature of the contamination is PCB's, we want to clean it up". The context of additional questions from the board members centered on what was described as, "frustration with the entire situation" [situation being with Julian and The Site]. They also described the Town's financial situation as, "not having two nickels to rub together with what's going on with the state right now" and that the Town had to spend \$300,000.00 at the time rather than wait for the litigation to run its course. A board member inquired as to what was going to be done to reduce the amount of material left on the site other than the "100 x 100 area" that comprised the

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Date 11-16-20	Signed (Affiant) Sgt Paul Li		
Jurat	Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public) Tamberlyn EL, S.A.S.A.	
Reviewed (Prosecutorial Official) Tamberlyn EL, S.A.S.A.	Date 11-16-2020	Reviewed (Judge/Judge Trial Referee) [Signature]	Date 11/16/20

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material deposited by Julian Enterprises on or about November 29, 2016. Tetreau answered that the pile would be reduced, "initially by building a berm" with the material from the pile. The follow-up question was whether or not that material was going to be tested to ensure there was no further PCB contamination which could be discovered, "twenty years from now". Tetreau responded that the material would be tested before it was used. He further explained that it would have to be tested to ensure it was not contaminated before it could be used on site, elsewhere in town or disposed of some other way.

37. On June 13, 2017, and in response to Town residents' ongoing concerns about the activities at The Site, the Town officials held a meeting for the Town residents and neighborhood. According to the presentation created for this meeting, attendance included, Michael Tetreau, Joseph Michelangelo, Brian Carey, Scott Bartlett and Robert Grabarek. This presentation details the remediation actions then occurring to address the PCB contaminated material brought to the site by Julian in November, 2016, including the excavation and removal of contaminated soils to a certified disposal facility outside of Fairfield. It also represents that, "Post Excavation Soil Samples to be collected for verification that contaminants have been removed". In the section entitled "Final Remediation Close Out" the Town represents that, "LEP verifies cleanup completed to CTDEEP standards" This presentation also specifically references the construction of the berm and states that, "materials utilized in the berm and capping will meet sampling protocol conforming to DEEP standards."
38. On June 21, 2017, according to an email sent by David McKeegan (DEEP WEED), a meeting was held at DEEP between DEEP him, Robert Grabarek, Joseph Michelangelo and Scott Bartlett regarding a Fairfield capping/closure project. Internal town emails between Michelangelo, Bartlett and Grabarek, beginning on 05/22/2017, referenced this meeting to discuss a proposed grading plan for the berm at The Site. McKeegan's email provides links to the permit application, instructions and attaches a copy of section 22a-208a(c) of the Connecticut General Statutes, identifying it as "the administrative mechanism the department will use to close the site."
39. On September 5, 2017, Joseph Michelangelo and Brian Carey attended a Board of Finance Meeting and appeared to be there to provide an update on the remediation of PCB-contaminated soils that were in the process of being remediated and paid for with funds previously approved by the Board of Finance on May 16, 2017 and June 6, 2017. However they were questioned by board members about cost involved in removing all of the remaining material left in the pile. Michelangelo stated that the estimated cost for removing the remaining material to be, "about \$3,000,000.00". Meeting minutes were found on the Town of Fairfield website that indicate a Public Meeting was held on October 10, 2017, at the Fire Training School. According to the minutes, Michael Tetreau, Joseph Michelangelo, Scott Bartlett and Brian Carey were all present. A PowerPoint presentation was attached to the minutes which discussed the continuing plans at The Site including the construction of the berm. One of the slides of the presentation for building the berm and landfill capping indicates, "Materials utilized in the berm and capping will meet sampling protocol conforming to CT DEEP standards"

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Date	11-16-20	Signed (Affiant)	Sgt Paul [Signature]
Jurat	Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public)	Jambalyn ELL, S.A.S.A.
Reviewed (Prosecutorial Official)	Date	Reviewed (Judge/Judge Trial Referee)	Date
Jambalyn ELL, S.A.S.A.	11-16-2020	[Signature]	11/16/20

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40. After receiving Cindy Knight's closure report involving the PCB contaminated material that had been removed and remediated from The Site in 2017, Janet Kwiakowski of DEEP's PCB Unit emailed Brian Carey on December 12, 2017 at 4:33PM. Kwiakowski wrote: *Hello Brian - we received the closure report from Logical Solutions and the incident involving the stockpile dumping from last December is closed. Please be aware that any other findings of PCBs or any contaminants at the yard would need to be reported to CTDEEP and remediated. The remaining pile would need to be characterized prior to disposal. If used for any other purpose, such as building a berm around the base, the CTDEEP must be involved in reviewing the plans. Also, the CTDEEP Long Island Sound Program would need to be part of the process.*
41. In response to Kwiakowski on 12/13/2017, 10:14 AM, Brian Carey wrote: *Janet, Hope all is well. The Town is currently working on a plan to process the existing pile and construct an earthen berm around the edge of the existing landfill and reclamation yard. The earthen berm will be heavily landscaped once it is completed. We have been having regular meetings with the neighborhood and Connecticut Fund for the Environment and everyone is in agreement that this is the way to move forward in order to correctly close the existing solid waste unit and provide visual screening to neighborhood. Osprey Environmental has been working with Dave McKeegan in the CTDEEP Solid Waste Unit in order to develop and permit the existing landfill closure plan which includes the construction of the earthen berm. In addition, the project will also require a Coastal Area Management permit that will be reviewed by the local Planning and Zoning Commission with a referral to Kristal Kallenberg at the CTDEEP. As part of the landfill closure project, the Town will be testing the stockpile at prescribed intervals in accordance with a Materials Sampling and Management Plan that will be developed prior to project initiation. Please let me know if you have any questions. Joseph Michelangelo, Cindy Knight and Robert Grabarek were copied on said email, which included Kwiakowski's 12/12/2017 email in the thread.*
42. As of December 13, 2017, Joseph Michelangelo, Brian Carey, Michael Tetreau, Robert Grabarek, and then Town Attorney, Stanton Lessor, had been notified by DEEP that the finding of PCBs or any contaminants needed to be reported [to DEEP] and properly remediated.
43. On April 9, 2018, Michael Tetreau sent an email to Joseph Michelangelo, Scott Bartlett, copying Emmet Hibson and Gerald Foley of the Town's purchasing department which stated, "Emmet has stepped me through our approach for DPW to compete the Berm. Joe/Scott - Let's get moving on this asap. Just want to confirm our \$65k budget will get this done by June 30th." Tetreau sent Hibson an email on April 27, 2018, asking for a status on the berm. He sent another email on April 30, 2018, with the subject, "Weekly updates on Pile Status", to Hibson, Michelangelo and his secretary Jennifer Carpenter. In this email, Tetreau asks, "Where do we stand? What happened last week? Are we on track for June 30?" Tetreau puts a separate line to Carpenter, instructing her to setup weekly meetings with Hibson and Michelangelo on Wednesdays to discuss, "updates on pile status."
44. On April 12, 2018, the Director Joseph Michelangelo and Robert Grabarek, of Osprey submitted

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Date 11-16-20		Signed (Affiant) <i>Sgt Paul J. [Signature]</i>	
Jurat	Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public) <i>[Signature] EC, SASA</i>	
Reviewed (Prosecutorial Official) <i>Tamborlyn EC, SASA</i>	Date 11-16-2020	Reviewed (Judge/Judge Trial Referee) <i>[Signature]</i>	Date 11/16/20

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an application to DEEP (#201805776) "Permit Application for Construction and Operation of a Solid Waste Facility" for the disruption and closure of a historic and previously an unpermitted portion of property landfill from many years ago, located below the surface of the Construction Material Processing Facility land. This initial application does not contain their plan regarding the construction of the any mention of a berm. This application was signed by Joseph Michelangelo, Director of Public Works, under statutory certification that said application contained true, accurate and complete information. This Application was incomplete, and included no sampling analysis. DEEP provided several written Notice of Insufficiency to the Town regarding this application. This Application was never approved by DEEP. Subsequent to the initial arrests of Scott Bartlett and Joseph Michelangelo in August, 2019, the Town of Fairfield, through counsel, withdrew their Application.

45. Affiant Hine's ongoing investigation revealed that, unbeknownst to DEEP, the construction of the berm project was underway without any approval or permitting from the DEEP, and that the Town was collecting sampling results of the materials at The Site, which samples showed significant PCB contamination, as well as other contaminants. Documentation obtained from the Fairfield Finance Department details DPW labor costs associated with the construction of the berm project as occurring between 4/18/2018 and 5/23/2018 and reveals that numerous DPW workers were instructed to handle, move, place, deposit and bury said materials on site and into the berm, as detailed below.
46. Joseph Michelangelo, Scott Bartlett and Emmet Hibson, with consultation and guidance from Robert Grabarek, instructed DPW employees to construct the berm. The DPW employees who worked on the berm construction project were interviewed by this Affiant and Inspector Posadas of the Chief State's Attorney's Office. Approximately 15-20 workers were interviewed, which interviews were voluntarily recorded and memorialized. All of the DPW employees recalled meetings between the workers and various combinations of Town officials, including, Scott Bartlett, Joseph Michelangelo, Brian Carey and Emmet Hibson leading up to the actual construction of the berm and continuing through the process. In a meeting on April 9, 2018, workers were told about the general parameters of the upcoming berm construction job including the short timeframe to complete it. This would include 10 hour days and that overtime pay would be available. Employees stated that they were told the job was "voluntary" but there were statements made by town officials, some specifically by Emmet Hibson, that if there weren't enough volunteers, employees could be forced to work on the berm or face discipline. Employees were told that doing this job with DPW employees would save the town money.
47. Most of the employees also remembered Robert Grabarek of Osprey Environmental being present at some of the early meetings and at most of the weekly meetings during the actual construction. In a meeting held on April 16, 2018, Grabarek presented a Health and Safety Plan for the Berm Construction Project. During this meeting, there were several employees who asked questions concerning the use of personal protective equipment (PPE), such as hazmat suits, respirators, etc., because of their concerns of potential exposure to contaminants from The Site operations. Most of the workers were aware of the previous 2017 removal action of the approximately 3,000

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Date	11-16-20	Signed (Affiant)	Sgt. Paul J. Hine
Jurat	Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public) Joseph Michelangelo, SABA	
Reviewed (Prosecutorial Official) Joseph Michelangelo, SABA	Date 11-16-2020	Reviewed (Judge/Judge Trial Referee) [Signature]	Date 11/16/20

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tons of polluted material that had been recently removed from The Site. As each of those concerns were raised, the employees were told by Town officials that testing would be done and they would be alerted to any problems. Employees were told specifically by Grabarek that personal protective equipment was available but not necessary and that it would just cause concern with the citizens. Grabarek also told employees that he himself would be working at the site without personal protective equipment. Employees were told specifically by Brian Carey that the levels of PCB's and lead at the site were the same as if you ate a fish out of Long Island Sound. This created assurance with the employees that they had minimal risk of any exposure to the PCBs.. The employees recall specific instructions from Robert Grabarek, and several town officials, including, Emmet Hibson, Joseph Michelangelo, Scott Bartlett, and Brian Carey.

48. The employees described safety meetings that were held to discuss the results of the soil testing. They stated that they were always told the levels were safe to work but most did not know any specifics about the test results other than the discussion of "residential" and "industrial" levels. Most of the employees stated that they never heard any report about levels exceeding "industrial" levels and believed it was safe, in part because of the assurances provided to them by the town officials, and Grabarek. A couple of the employees recalled that they were warned about some material where the testing levels were high. They described the definition of "high" as "over residential but under industrial." One employee, who was loading material into trucks, was instructed by Grabarek to not touch a pile of material. He stated Grabarek told him the pile needed to be "diluted" and instructed him to mix the pile with other material then load it into trucks to be dumped in the berm. Another employee described a "hot zone" of about ten truckloads of material that he was told tested near "industrial" level. He stated this material was buried in the bottom of the berm. Neither employee knew specifically what was in the material, just that whatever it was tested "high" and was treated differently than other material.
49. A review of town email records by Inspector David Posadas revealed that on April 19, 2018, Grabarek emailed Bartlett and DPW employee Carlos Montiero the laboratory report detailing the analysis of a sample he took from The Site on April 9, 2018. This analytical report, (CET Report # 8040383R) provided details on the analyses performed on the sample which included Total Lead, Total Arsenic, and Extractable Total Petroleum Hydrocarbons (ETPH). This laboratory report was emailed by Bartlett at 6:00 AM on April 20, 2018 to Hibson, Michelangelo, DPW employee George Kaczegowicz and Monteiro. Bartlett also instructed his secretary, Colleen Roche, to post the results on The Town's website and to make a copy for the [DPW employee] muster room. Also on April 20, 2018, at 9:28 AM, Michelangelo emailed Bartlett separately and told him that he [Michelangelo] had met with Brian [Carey] and that, "We agreed we should be testing for PCBs. I then called Bob [Grabarek]. He will have the lab run tests for PCBs for all the samples collected thus far."
50. On April 20, 2018, at 10:50 AM, Ed Singleton, the DPW Union President, questioned Bartlett (by email) if lead, Arsenic and ETPH were the only substances that were tested for. He provided a list of substances that he described as, "commonly tested compounds pertaining to soil issues", and asked for the results to be provided. This list included PCBs. This email appears to have

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[Signature] S.A.S.A.	11-16-2020	[Signature]	11/16/20

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resulted in a meeting at The Site on April 20, 2018 at 1:00 PM between Michelangelo, Singleton, DPW employees J. DiTullio and J. Bras and Grabarek. Michelangelo provided details of this meeting to Hibson by email on April 20, 2018 at 3:08 PM. This email references the meeting and that dDuring this meeting, Singleton confirmed that he wanted the additional testing he requested performed. The email references and Grabarek's oral gave, *an oral* response that he did not feel that these are necessary on why he does not feel these are necessary and will follow up with a written response.

51. At 3:44 PM on April 20, 2018, Brian Carey emailed Michelangelo and Hibson, copied Bartlett and Grabarek and wrote, *There is no reason to test for that whole list provided below [Singleton's list]. Some of the laboratory test[s] are not even related to pollution or contaminated that might cause perceived health issues. The Constituents of Concern (COC) that Are being tested for are based on the historically [sic] use of the site and knowledge of the former operations at the site. Previous sampling data backs up the rational for the existing testing regime.* On April 23, 2018, Michelangelo emailed Grabarek a list of the items that Cindy Knight was testing for during the last several months of the "Julian Operations." He asked Grabarek, "Perhaps for consistency, we can propose testing for these same items?" Brian Carey and Bartlett were copied on this email.
52. A review of town email records by Inspector David Posadas revealed communication between Grabarek and Hibson, Bartlett and Michelangelo as to the content of the Health and Safety Plan. The Health and Safety Plan was an attachment to these numerous emails. Under Section 2.2 of the Health and Safety Plan, Titled, Scope of Work, paragraph (7) states, *if contaminated soils are encountered, they shall be loaded into water tight containers and covered when full or staged on 30 mil poly sheeting, surrounded with silt fence and covered with 10 mil sheeting.* Paragraph (8) states, *load and transport contaminated soils to a licensed disposal facility.* This same language is listed in Section 9.0 titled, Impacted Material Containment and Disposal (if required). According to DEEP, there is no record of any contaminated material being removed from The Site after the Town's removal actions pursuant to LEP Cindy Knight. Under Section 4.0, titled, Personal protective Equipment, Grabarek lists Level D as the required PPE to be worn while working on the berm project. Level D is hard hat, safety glasses, traffic safety vests, steel toed boots and leather protective gloves.
53. This affiant interviewed Carlos Monteiro, a DPW supervisor who worked on the berm construction project. Monteiro stated, before he or his men could move any material, it had to be tested. Monteiro stated one of his men would dig test holes and Grabarek himself would get into the test holes and collect samples of the material in glass jars, for testing. He would then place the glass jars of collected samples into his vehicle. Every Tuesday, Grabarek would return to the Site and tell the DPW employees the results of the tests and he would confirm that the material could be moved into the berm. Monteiro stated that Grabarek only identified one area on the Site which he told the men had, "a little bit of PCBs in it". Grabarek told them to move the material into the berm and told them that as long as they cover it with material from the rest of the pile, it will be fine because no one will disturb it. There was never an occasion on which employees were told that test results of samples taken showed the presence of any contaminants

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Reviewed (Prosecutorial Official) [Signature] S.A.S.A.	Date 11-16-2020	Reviewed (Judge/Judge Trial Referee) [Signature]	Date 11/16/20	

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that made it unsafe, and/or prohibited them from moving the material into the berm. The statements of other DPW berm workers were consistent with the above information given by Monteiro.

54. The workers previously referred to above relay the general conditions of working on the Site as 10 hour days and very dusty. They would be instructed to clean the equipment and trucks daily. One worker recalls having to, "clean the cabin air filter every other day." Workers also recall that Grabarek would take samples and instruct them what "hot zones" were to be mixed with other soils to "dilute" the certain levels. Many of the workers described in detail how they buried these materials into the berm.
55. On October 3, 2019, Affiant Hine and Inspector Matthew Schroeder executed a search and seizure warrant for Osprey Environmental Services, LLC. Business documents and computer equipment were seized. A review of the seized evidence revealed a document authored by Grabarek, dated June 7, 2018, addressed to Scott Bartlett, Director of Public Works, and titled, *Soil and Material Reuse Criteria - Aggregate Recycling Yard Berm Project, Fairfield, CT*, on Osprey Environmental Engineering, LLC Letterhead. The document includes a summary of, chemical hazards anticipated at the site and respective safety limits. Grabarek listed safety limits for "Petroleum Hydrocarbons (ETPH), Polychlorinated Biphenyls (PCBs), Lead, Arsenic, and Mercury". In the letter, Grabarek gave the following material reuse instructions:
- i. If soils meet Residential DEC - use as Topsoil.*
 - ii. If soils are above Residential DEC but below Industrial/Commercial DEC - Acceptable to remain on-site in the aggregate Yard area where access is restricted to municipal workers. Or mix to bring COC's below Residential DEC if they are to remain at the surface in areas accessible to the public.*
 - iii. If soils are above the Industrial/Commercial DEC - Remove from the site if they are PCBs. Bury in the berm to avoid exposure or mix to bring COCs below Residential DEC if they are to remain at the surface in areas accessible to the public.*
56. The last paragraph of Grabarek's 6/7/2018 letter reads, *It should be noted that the above criteria are based on long term exposure of soils to workers and to the public, and on short term dust exposures to workers during site disturbance activities. These criteria are different than that used for the initial cleanup of the regulated waste remediation project performed by CTR services last year (See REMEDIAL ACTION REPORT, PCB-Contaminated Fill Pile, Town Reclamation Yard, 183 Richard White Way, Fairfield, CT), prepared by LES and dated 05 December 2017. The remediation criteria used in that project were different than this project as the materials being removed were potentially subject to Federal TSCA Regulations which are quite different than the above environmental/health & safety based criteria applicable to the berm project.*
57. This 6/7/2018 document to Bartlett appears to have been written by Grabarek per a request from

(This is page 15 of a 24 page Affidavit.)

Date	11-16-20	Signed (Affiant)	Sgt Paul Dini
Jurat	Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary-Public)	Timberlake EC, SASA
Reviewed (Prosecutorial Official)	Date	Reviewed (Judge/Judge Trial Referee)	Date
Timberlake EC, SASA	11-16-2020	[Signature]	11/16/20

ARREST WARRANT APPLICATION

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Affidavit - Continued

Bartlett. Its date (6/7/2018) is approximately 16 days after the last payments made to DPW employees working on the Berm Project were made (5/22/2018). The first sentence of said letter reads, "Per your request." The email thread on which the letter was attached was sent by Grabarek to Bartlett on 6/7/2018, asking if he [Bartlett] wanted any revisions. Grabarek's 6/7/2018 email was copied to both Directors' Michelangelo and Carey. Carey responded, "I have no issues with the attached."

58. According to Lori Saliby of DEEP's PCB Unit, Grabarek's representations made in paragraphs (4351) & 52(44) above do not adhere to the requirements listed in CGS Sec 22a-467-469 and in the Code of Federal Regulations, 40CFR 761.

59. On October 31, 2019, Inspector Matthew Schroeder of the Connecticut Chief State's Attorney's Office, executed a search and seizure warrant on CET, 80 Lupes Drive, Stratford, CT for records of the analysis of samples taken from The Site and submitted to them by Osprey.

60. Pursuant to this search warrant, CET provided sample analysis reports dating April 1, 2018 through August 31, 2018, and supporting documentation. Inspector Matt Schroeder of the Connecticut Chief State's Attorney's Office, conducted a review of this documentation for the time frame believed to cover the testing performed during the construction of the berm. Inspector Schroeder identified the following sample reports which revealed levels of PCB's, with concentrations greater than one part per million or 1 mg/kg.

CET Report Number	Sample Date	Total PCB Level (mg/kg)
a. 8050141	05/08/2018	2.1
b. 8050440	05/11/2018	1.4
c. 8050862	05/25/2018	8.6*
d. 8060103	06/05/2018	1.2
e. 8060378	06/12/2018	9.6*, 7.6, 1.2, 1.9
f. 8060584	06/19/2018	1.4
g. 8060810	06/26/2018	1.1

61. *These analysis results indicated the presence of PCB's at such a significant level that, as a result of the state's investigation, they were referred to the U.S. Environmental Protection Agency (USEPA) by DEEP on October 19, 2019. The Town never reported the above listed lab results of PCB contaminated material to DEEP, as they were instructed to do by Janet Kwiatkowski of

(This is page 16 of a 24 page Affidavit.)

Date	11-16-20	Signed (Affiant)	Sgt Paul N...
Jurat	Subscribed and sworn to before me on (Date)	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public)	
	11-16-2020	Jacobson, S.A.S.A.	
Reviewed (Prosecutorial Official)	Date	Reviewed (Judge/Judge Trial Referee)	Date
Jacobson, S.A.S.A.	11-16-2020		11/16/20

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Affidavit - Continued

DEEP's PCB Unit.

62. Inspector David Posadas of the Connecticut Chief State's Attorney's Office, conducted a search of the former Superintendent of the Fairfield DPW, Scott Bartlett's, emails, which were provided from the Town of Fairfield Information Technology Department. Inspector Posadas searched e-mails from dates surrounding the sample dates listed above. Each of the CET lab reports were sent to Bartlett as an attachment to an email by Grabarek. Bartlett in turn forwarded each of these emails to other individuals, including but not limited to: Joseph Michelangelo and Emmet Hibson. In addition to the analysis reports, Grabarek includes a letter, drafted on Osprey letterhead and bearing his electronic signature. In each of these letters, Grabarek refers to the PCB's with levels above 1 ppm as being, "...above the residential but below the industrial/Commercial DEC." Grabarek appears to be referring to the soil remediation standards detailed in RCSA §22a-133 et seq. In none of the cases where the PCB concentrations were found to be in excess of 1 ppm, does he apply the standards set forth in CGS §22a-467, et seq. According to Lori Saliby of CT. DEEP, the Remedial Standards Regulations do not apply to these materials due to the fact this is an illegal disposal of PCB's pursuant to §22a-467 in this situation. According to CT DEEP records, the Town of Fairfield, CT does not possess any the Environmental Land Use Restriction (ELUR) required to exempt the necessary permits for use of PCB contaminated material on The Site.
63. In an email to Michelangelo and Bartlett sent on 5/11/2018 at 12:15 PM, Grabarek attached analytical report number **8050141**. In the body of the email, he recommends, "...retesting this pile before relocating it..." Bartlett in turn forwarded Grabarek's email to Hibson, Michelangelo and DPW personnel George Kaczegowicz, Carlos Monteiro, Ed Singleton and John DiTullio and copied Colleen Roche, his Secretary.
64. In an email to Michelangelo, Bartlett and Monteiro, dated 5/15/2018 at 4:42:47 PM, Grabarek attached analytical report number **8050440**. In the body of the email Grabarek writes, "the stockpile with somewhat elevated PCBs can remain on site because it is well below Industrial/Commercial DEC and, ...the material can remain on site but should be buried and not used as surface soils..." This email was forwarded by Bartlett on 5/15/2018 at 4:45 PM to Hibson, Michelangelo, Kaczegowicz, Monteiro, Singleton, DiTullio, and Roche.
65. In an e-mail to Michelangelo and Bartlett, dated 5/18/2018 at 6:10 PM., Grabarek again attached analytical report number **8050440**. There were no further instructions and/or communications in the email. Grabarek also attached analytical report number **8050577**, which details no PCB results greater than 1 ppm. This e-mail was forwarded by Bartlett on 5/21/2018 at 6:16 AM to Hibson, Michelangelo, Kaczegowicz, Monteiro, Singleton, DiTullio and Roche.
66. In an e-mail to Michelangelo, Bartlett, Monteiro and another DPW employee, Marc Merlonghi, dated 5/30/2018 at 11:47 AM Grabarek attached analytical report number **8050862**. In the body of the email, Grabarek writes, "The sediment basin sample to the east (Pond 1) had PCBs above the residential DEC but below the I/C DEC so this should probably be buried an' I'll take another

(This is page 17 of a 24 page Affidavit.)

Date	11-16-20	Signed (Affiant)	Sgt Paul Whis	
Jurat	Subscribed and sworn to before me on (Date)	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public)		
	11-16-2020	Tamberlyne EC, SASA		
Reviewed (Prosecutorial Official)	Date	Reviewed (Judge/Judge Trial Referee)	Date	
Tamberlyne EC, SASA	11-16-2020	[Signature]	11/16/20	

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sample the next tim' I'm down..." This email was forwarded on 5/31/2018 at 6:04 AM., to Kaczegowicz, Monteiro, Merlonghi and Hibson. Grabarek also attached analytical report number 8050861. This report did not detail PCB results greater than 1 ppm.

67. In an email to Michelangelo, Bartlett, Monteiro and another DPW employee Scott Leamon, dated 6/6/2018 at 4:18 PM, Grabarek attached analytical report number **8060103**. In the body of the email, Grabarek writes, "... Soil stockpile TS3 slightly high in arsenic, mix for topsoil or bury it; and , Access drive - PCBs slightly high, probably bury... grid F east side - arsenic 27 above 10 standard, probably bury". This email was forwarded on 6/7/2018 at 6:27 AM to Hibson, Michelangelo, Kaczegowicz, Merlonghi, Singleton, DiTullio and Roche.
68. On 6/13/2018, at 5:04 PM, in an email to Michelangelo, Bartlett, Montero, and Leamon, Grabarek attached analytical report number **8060378**. In the body of the email, Grabarek writes, "...A couple of high PCB concentrations but still below the Industrial/Commercial DEC. Should bury these..." This email was forwarded by Bartlett on 6/14/2018 at 6:06 AM to Hibson, Michelangelo, Kaczegowicz, Monteiro, Merlonghi, Singleton, DiTullio and Roche. As indicated above, two of these results, 9.6 ppm and 7.6 ppm, were the source of DEEP's PCB Unit's referral to the USEPA pursuant to TSCA. Grabarek does not notify DEEP and/or USEPA, but he recommends that his client, The Town of Fairfield, bury this material. The Town officials instructed their employees to do so.
69. On 6/20/2018 at 12:37 PM, in an email to Michelangelo, Bartlett, Monteiro, and Leamon, Grabarek attached analytical report number **8060584**. In the body of the email, Grabarek writes, "All Good. One grid a bit high in PCBs so it should be buried." This email was forwarded on 6/20/2018 at 1:05PM by Bartlett to Hibson, Michelangelo, Kaczegowicz, Monteiro, Merlonghi, Singleton, DiTullio, and Roche.
70. On June 28, 2018 at 2:42 PM, in an email to Michelangelo, Bartlett, Monteiro and Leamon, Grabarek attached analytical report number **8060810**. In the body of the email, Grabarek writes, "...All good except one grid slightly over residential DEC for PCBs." On June 28, 2018 at 2:48 PM, this email was forwarded by Bartlett to Hibson, Michelangelo, Kaczegowicz, Monteiro, Merlonghi, Singleton, DiTullio and Roche.
71. The above emails document the improper methodology for the remediation of PCB's that LEP Robert Grabarek and the Town officials applied during the construction of the Berm. The Town officials and representatives, in following the "mix and dilute" approach, buried and disposed of the contaminated materials, which included the PCB contamination. State and federal law do not allow for PCB's to be disposed of by diluting and mixing them with other material, and/or by burying them. Michelangelo, Bartlett, Carey and Grabarek were notified prior to the construction of the Berm by DEEP's Janet Kwiakowski that DEEP would have to be notified of any material found on the Site that contained PCB's and that said material would have to be properly remediated. According to DEEP's PCB Unit Grabarek did not remediate the Site in accordance

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Date 11-16-20	Signed (Affiant) <i>Sgt. [Signature]</i>		
Jurat	Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public) <i>Jambel [Signature]</i> SASA	
Reviewed (Prosecutorial Official) <i>Jambel [Signature]</i> SASA	Date 11-16-2020	Reviewed (Judge/Judge Trial Referee) <i>[Signature]</i>	Date 11/16/20

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with the standards set forth in CGS 22a-467-469 and 40 CFR 761.1.

72. January, 2019,, The Town prepared a written response to comments and questions set forth in a letter from DEEP to Joseph Michelangelo, dated In September, 2018, DEEP WEED issued a letterSeptember 26, 2018. In its September, 2018 letter of insufficiency regarding the Town's Application for closure of The Site. , DEEP had specifically asked for the following information regarding the proposed berm: *What is the configuration (ie., height, length, volume or material, etc) of the berm? Please provide information regarding the types of materials used in the construction of the berm and analytical results of representative samples of said materials demonstrating that they meet the definition of "clean fill" as defined by 22a-209-1 of the Regulations of Connecticut State Agencies.*
73. In January, 2019, The Town prepared a written response to comments and questions set forth in the above-referenced insufficiency letter from DEEP. A letter dated January 31, 2019 , addressed to Joseph Michelangelo from Robert Grabarek , regarding, *Response to DEEP Comments Unpermitted Landfill Closure* was received at DEEP February 1, 2019. This was submitted to DEEP as part of the Town's pending Application for a permit for closure of The Site. In this letter, the Town's response to the question quoted above, indicated that the material in the berm include, sand, gravel, crushed asphalt, cement concrete and soil. The letter indicated that, "an extensive chemical characterization was conducted recently" and proposed that such characterization met the DEEP Remediation Standards Regulations. Included in the list of contaminants found in the site are, Benzo(a)athracene, benzo(b)fluoranthene, benzo(a)pyrene and indeno (1,2,3cd)pyrene, ETPH and Arsenic. The letter states that, "soil was mixed with, other clean fill to bring the concentrations below the RSR. Some minor concentrations of PCBs were present in soil samples below the PCB DEC criterion." This letter did not indicate the actual levels of these contaminants from the samples taken by Grabarek and tested by CET labs, nor did the Town provide any of these analytical reports. This letter did not inform DEEP that the DPW employees had been instructed to dilute PCB containing material by burying it into the berm, in violation of both CGS §§22a-467-469 and 40CFR761.1.
74. Affiant Hine's investigation also discovered a draft copy of the letter detailed above, dated January 10, 2019. This letter was also addressed to Joseph Michelangelo by Grabarek which were not included in the final version dated January 31, 2019. In said draft, in the section titled, *Berm Wall Configuration*, Grabarek includes a question to Michelangelo, "also, what tense do you want to use for the berm construction - do you want to acknowledge that it is already in place?" In the January 31, 2019 final letter received by DEEP on February 1, 2019, the language in the Berm Wall Construction infers that portions of the berm construction were ongoing, *The regrading associated with the site reconfiguration involves lowering the existing grades substantially and relocating some of the materials slightly to the south and east to create the berm.* Neither the January 10th draft nor the January 31st final letter provide an acknowledgment that the berm had been completed and the PCBs already buried, approximately six months prior.

75. According to Town Finance records, The Town approved multiple invoices from Robert Grabarek

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Date	11-16-20	Signed (Affiant)	Sgt Paul Hine
Jurat	Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary-Public)	Lambert EC, SASA
Reviewed (Prosecutorial Official)	Date	Reviewed (Judge/Judge Trial Referee)	Date
Lambert EC, SASA	11-16-2020	[Signature]	11/16/20

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of Osprey for his services with regard to the construction of the berm and paid him a total of \$68,952.28.

76. In July, 2019 several Town officials, including Joseph Michelangelo, Scott Bartlett and Brian Carey provided sworn testimony concerning the activities at The Site that are relevant to this investigation. Their testimony was offered during a civil suit filed by the Town against Julian Enterprises, LLC for the dumping of the contaminated soils at The Site on November 29, 2016. At an Arbitration Hearing in the matters of Town of Fairfield vs. Julian Development, LLC et al. and Julian Development, LLC, et al. vs. Town of Fairfield held on July 8, 2019, Joseph Michelangelo testified under oath that the berm construction costs included approximately \$65,000.00 in construction equipment rental and approximately \$20,000.00 in landscaping cost. He also testified that the removal of all of the material on The Site would cost approximately \$3,600,00.00 to remove. This figure was based upon a quantity of material totaling 60,000 cubic yards or 105 tons. A review of the transcripts of this testimony did not reveal that said cost included the costs associated with the characterization of this material, just its removal.
77. Joseph Michelangelo further testified on July 18, 2019 that, "the only reason testing was done during the construction of the berm was because of the construction only. He added that the Town wouldn't test because if it's [PCB's] in the ground I don't think you mess with them."
78. Brian Carey also testified under oath at the July 8, 2019 Arbitration Hearing. Carey testified that he visited the site on December 13, 2016 at the request of Joseph Michelangelo. Carey described the material that had been discovered by Cindy Knight as "demolition material," containing BX cable, vinyl tile, concrete containing mastic and brick from a chimney stack. Carey also testified that DEEP Oil and Chemical Spills Response Division (OCSR) Emergency Response Coordinator (ERC), Kevin LeClerq told him that the material needed to be covered and properly characterized. Carey elaborated on this point by adding that the constituents of concern included PCB's and Lead and that if this material wasn't covered and it was rained upon, these contaminants could migrate. He further added that if this material was re-processed and moved off site it could possibly contaminate that site as well.
79. A Special Board of Finance Meeting was held on August 26, 2019, after the execution of arrest warrants on Scott Bartlett, Joseph Michelangelo and Jason Julian. This meeting was attended by town officials including Michael Tetreau and Brian Carey. During this meeting in response to questions posed by the board members, Tetreau stated that based on the testing that had been performed on the material in the stock pile, it was appropriate to be used to build the berm. Also in response to questions posed by board members, Carey admitted that the berm was built without a permit from the State [DEEP] and in an attempt to minimize the significance of this he further stated that building it without a permit was not uncommon and the Town had not been issued a

(This is page 20 of a 24 page Affidavit.)

Date	11-16-20	Signed (Affiant)	Sgt Paul J. L...
Jurat	Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public)	Timberlake, S.A.S.A.
Reviewed (Prosecutorial Official)	Date	Reviewed (Judge/Judge Trial Referee)	Date
Timberlake, S.A.S.A.	11-16-2020	[Signature]	11/16/20

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Affidavit - Continued

consent order or notice of violation from DEEP. Carey described the material used to build the berm as acceptable and explained the presence of Total Petroleum Hydrocarbons in the material due to the large amount of asphalt contained within it. Carey did not inform the board that this material contained PCB's.

80. This Affiant interviewed Conservation Department Supervisor, Tom Coarse, on multiple occasions in October of 2019 regarding the use of possibly contaminated Julian provided material on Town Projects. Coarse gave a voluntary signed sworn written statement regarding his knowledge of that material. Course also stated that, in August or September of 2019, Brian Carey, his supervisor, told him, "I heard you were talking to the police. Don't talk to the police. They don't know what they are talking about. They are a bunch of liars." Coarse stated that Carey followed this statement up with, "I can't tell you what to do."
81. On October 30, 2019, upon review of all relevant information, including the above-referenced CET lab analysis reports, the CT DEEP issued a Notice of Violation (NOV #WSPCB019-001). This NOV was issued to Michael Tetreau as First Selectman of Town of Fairfield and cited violations of CGS Sec. 22a-467 and CGS Sec. 22a-430. Subsequently, the United States Environmental Protection Agency, Toxics, Pesticides and Drinking Water Compliance Section (EPA) issued written notice to the Town of Fairfield that The Site violates the Federal Toxic Substances Control Act (TSCA) and that the PCB-contamination at The Site must be addressed and cleanup and disposal must be in accordance with federal law.
82. Due to lack of cooperation from former Town officials, this Affiant, along with members of the Office of The Chief State's Attorney, and members of the CT DEEP obtained a Search and Seizure Warrant to access The Site and take several preliminary soil and sediment samples, which was done between November 20-22, 2019. Included in the samples taken were 27 samples of debris, taken from depths ranging on the surface down to twenty feet. 16 samples of these pieces of debris contained PCB levels ranging from trace amounts to 230 ppm.
83. Since January, 2020, the current Town Administration, on behalf of the citizens of Fairfield, has been addressing the extensive remediation of The Site, working in conjunction with both US EPA and CT DEEP. During summer, 2020, a site characterization was performed by the Town's newly hired LEP, Weston & Sampson Engineers. The Report of Findings, including sample analysis is over 5,000 pages in length. According to DEEP Waste Enforcement Division's preliminary review of said analysis, multiple samples identify contained contaminants consistent with solid waste and demolition debris construction and demolition debris. Joe Schiavone of DEEP, including, said the report indicates sample results with elevated levels of benzo(a)pyrene as high as 3,900 ug/kg. They also found elevated levels of benzo(b) fluoranthene, Indeno(1,2,3-cd)pyrene and benzo(a)anthracene and ETPH. According to DEEP PCBs Unit's preliminary review of said analysis, multiple sample analysis from the berm show PCB contamination well over 1 ppm and at depths of only 5 feet. PCB concentrations were

(This is page 21 of a 24 page Affidavit.)

Date 11-16-20	Signed (Affiant) <i>Sgt Paul [Signature]</i>
Jurat Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public) <i>[Signature] SASA</i>
Reviewed (Prosecutorial Official) <i>[Signature] SASA</i>	Reviewed (Judge/Judge Trial Referee) <i>[Signature]</i>
Date 11-16-2020	Date 11/16/20

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found as high as 244 ppm in other areas of the berm.

84. According to the current Town Attorney, the recently estimated cost of remediation of The Site is \$5-10 Million Dollars.
85. In Summary - The tremendous volume of material that Julian Development was allowed to accept at the Construction Material Processing Facility during the time frame of 2013-2016, and the subsequent discovery of contaminated material on the site, was the direct result of the failure of Scott Bartlett and Joseph Michelangelo to properly manage and monitor the activities of Julian Development while they operated on Town DPW property. This failure resulted in approximately \$280,000 of site remediation of contaminated material for the Town in 2017. This brought intense public scrutiny and criticism of First Selectman Tetreau, as well as of Michelangelo, Bartlett and Carey.
86. After completion of the initial remediation, approximately 100,000 cubic yards of material remained on the Town of Fairfield Construction Material Processing Facility site. This remaining material would have cost millions of dollars to remove and properly remediate. Additionally, the remaining 100,000 cubic yards of suspect material left behind by Julian Development continued to create an esthetically undesirable view of the pile, and had been the topic of many Fairfield resident complaints. These complaints brought further criticism and pressure toward Tetreau, Michelangelo, Bartlett and Carey. Michelangelo and Bartlett, in consultation with Carey, Tetreau, and Emmet Hibson, devised a plan to build a berm, with slopes to an elevation of 45', around the exterior of The Site, intended to shield the view of the site from the residents, as well as dispose of some of the material left on the site by Julian Development. Robert Grabarek, of Osprey Environmental was hired by the Town to conduct testing of the material before it was to be used in the berm, and to assist these Town officers on how to handle the material. The Town did not hire LEP, Cindy Knight to assist with this project. Emails described in Paragraphs 45-47 above describe how Michelangelo, Bartlett, Carey, and Hibson were all involved in deciding what types of contaminants would be tested for, when Grabarek performed the sampling of the material being used in the berm.
87. The berm construction project created another unbudgeted expense to the Town which was viewed to be a result of the mismanagement of the Julian Development activities on town property, and brought more public criticism and pressure onto Tetreau, Michelangelo, Bartlett, and Carey. This public criticism was intensified by the fact that Town Officials had accepted a fraudulent performance bond submitted by Julian Development, leaving the Town with no recourse to seek financial restitution for these unbudgeted Town expenses.
88. The testing of the material that was conducted as the berm was being built, showed PCB levels ranging from 1.1 mg/kg up to 9.6 mg/kg. These test results were circulated via e-mail amongst Town Officials and subsequently posted to the Town web site. Interviews conducted with DPW employees who worked on the berm project revealed that Michelangelo, Bartlett and Grabarek told them that all of the tests indicated that most of the material could be removed from the pile

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Date 11-16-20	Signed (Affiant) <i>Sgt Paul [Signature]</i>
Jurat Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public) <i>[Signature]</i> , SASSA
Reviewed (Prosecutorial Official) <i>[Signature]</i> , SASSA	Date 11-16-2020
Reviewed (Judge/Judge Trial Referee) <i>[Signature]</i>	Date 11/16/20

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and used to build the berm, while some of the material needed to be buried or mixed in the berm. This instruction was given, in spite of the fact that Michelangelo, Bartlett, Carey, and Grabarek, had previously demonstrated their knowledge that PCB contaminated material over 1ppm should have been disclosed to the CT DEEP, removed from the site for proper disposal and should not have been used to build the berm. Instead, these town officials paid Grabarek to apply the "mix and bury" approach to disposing of the PCBs in the berm and this approach was authorized by Brian Carey, as referenced in the email in Paragraph 53 above.

89. Michelangelo reported in his October 2016 Public Meeting, that 30,000+ cubic yards of material was used to build the berm. The illegal use of approximately 30,000 cubic yards of PCB contaminated material in the construction of the berm allowed Michelangelo, Bartlett and Carey to avoid another unbudgeted and costly remediation expense to the Town. This expense, if incurred, would have further highlighted the severe financial and environmental consequences of their failure to monitor Julian Development activities while operating on Town property. Instead, Michelangelo, Bartlett, Hibson and Grabarek, instructed DPW employees to illegally use the PCB contaminated material to construct the berm, attempting to avoid further public scrutiny and additional costly remediation. Michelangelo, Bartlett and Carey, under the direction of Tetreau and Hibson, continually represented their decisions and actions as saving the Town money. They represented to the Town citizens and the Board of Finance that the material in the berm was not contaminated. Yet, numerous testing at The Site reveals otherwise - test results performed from their own testing in 2018 (via Grabarek), test results from the State's testing in 2019, and test results from the Town (current administration) in 2020. According to the current Town Attorney, the recently estimated cost of remediation of The Site is \$5-10 Million Dollars. It is not yet known whether this includes the surrounding wetlands, marshes and waterways.
90. Brian Carey was promoted by then First Selectman Michael Tetreau. In 2019, subsequent to the arrests of Scott Bartlett and Joseph Michelangelo regarding the pending charges referred to in Paragraph above, both Scott Bartlett and Joseph Michelangelo were terminated from their positions with the Town of Fairfield. According to the Town's current Human Resource Director, James Haselkamp, on August 6, 2019, Brian Carey was assigned the responsibilities of Michelangelo's job as Director of Public Works by the then, First Selectman, Michael Tetreau. Carey received an additional annual salary increase of \$24,000.
91. In August, 2020, Brian Carey was contacted by law enforcement investigating The Site to offer Mr. Carey an opportunity to meet and provide any information that may be relevant to the ongoing investigation of the illegal activities at The Site. On September 14, 2020, Brian Carey, and his legal counsel voluntarily met with this Affiant and other law enforcement at the Office of the Chief State's Attorney. An Interview Agreement was executed beforehand regarding this meeting and governs any discussion during the September 14th meeting. Subsequently, Brian Carey, through his legal counsel, submitted a letter, dated September 21, 2020 in which he offered general information, denied information, and claimed to have no recollection of

(This is page 23 of a 24 page Affidavit.)

Date 11-16-20	Signed (Affiant) <i>[Signature]</i>
Jurat Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public) <i>[Signature]</i> SAsA
Reviewed (Prosecutorial Official) <i>[Signature]</i> SAsA	Date 11-16-2020
Reviewed (Judge/Judge Trial Referee) <i>[Signature]</i>	Date 11/16/20

ARREST WARRANT APPLICATION

JD-CR-64b Rev. 3-11
C.G.S. § 54-2a
P.B. §§ 36-1, 36-2, 36-3

**STATE OF CONNECTICUT
SUPERIOR COURT**

www.jud.ct.gov

Name (Last, First, Middle Initial) Carey, Brian	Residence (Town) of accused Fairfield	Court to be held at (Town) Bridgeport	Geographical Area number 2
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Affidavit - Continued

information. In specific areas of inquiry, the letter stated that Mr. Carey could not confirm or deny the information.

92. Law enforcement recently contacted legal counsel of record for Scott Bartlett to offer the opportunity for Mr. Bartlett to provide any information regarding the ongoing investigation of this matter. None was provided and no meeting or interview occurred.
93. Law enforcement recently contacted legal counsel of record for Joseph Michelangelo to offer the opportunity for Mr. Michelangelo to provide any information regarding the ongoing investigation of this matter. None was provided and no meeting or interview occurred.
94. Law enforcement attempted to contact Attorney Jeremiah Donovan who represents Robert Grabarek to offer the opportunity for Mr. Grabarek to provide any information regarding the ongoing investigation of this matter. There was no response and no information was provided.
95. Law enforcement attempted to contact Emmet Hibson to offer the opportunity for Mr. Hibson to provide any information regarding the ongoing investigation of this matter. There was no response and no information was provided.
96. Wherefore, on divers dates, April 1, 2018 to June 30, 2018, Brian Carey (d.o.b. 01/08/1978) knowingly disposed of PCB's, on the property located at 183 Richard White Way, Fairfield, CT, in violation of Conn. Gen Stats. Secs 22a-467, 438(c).
97. Wherefore, on divers dates, April 1, 2018 to June 30, 2018, Brian Carey (d.o.b. 01/08/1978) knowingly discharged materials into the waters of Connecticut without a permit, including surface and subsurface waters in Fairfield, in violation of Conn. Gen. Stats. Secs 22a-430, 438(c).
98. Wherefore, on divers dates from December 13, 2016 to present, Brian Carey (d.o.b. 01/08/1978) with intent that conduct constituting a crime be performed, conspired with one or more persons to engage in or cause the performance of such crime(s), including but not limited to the crime of: Illegal Disposal of PCB's on property located at 183 Richard White Way, Fairfield, CT, in violation of Conn. Gen. Stats. Secs 53a-48/22a-467/438(c).

This affiant has probable cause to believe that Brian Carey (d.o.b. 01/08/1978) of 265 Figlar Ave., Fairfield, CT, did commit the above listed offenses and respectfully request that an arrest warrant be issued.

(This is page 24 of a 24 page Affidavit.)

Date 11-16-2020		Signed (Affiant) Sgt Paul W...	
Jurat	Subscribed and sworn to before me on (Date) 11-16-2020	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public) Lamberlyn E. SASSA	
	Reviewed (Prosecutorial Official) Lamberlyn E. SASSA	Date 11-16-2020	Reviewed (Judge/Judge Trial Referee) [Signature]
			Date 11/16/20